



February 2014

## Summary: H.R. 3982

### Open Internet Preservation Act

Committee on Energy and Commerce

Minority Staff

- H.R. 3982, the Open Internet Preservation Act, restores the Open Internet Rules struck down by the D.C. Circuit in January prohibiting broadband Internet service providers from engaging in discriminatory behavior or blocking content altogether. The rules will be restored and remain in effect until the Federal Communications Commission (FCC) takes new final action in the Open Internet proceeding.
- The Internet is driving economic growth across the country thanks to a history of successful communications policies that prevent broadband providers from acting like gatekeepers online.
- Allowing consumers to access the content, applications, services, and devices of their choosing creates a virtuous cycle of investment and innovation. As a result, the Internet has changed the way our citizens are educated, how they do business, how they find news and information, and even how they receive healthcare. These tremendous social and economic benefits demonstrate the necessity of a free and open Internet.
- In 2010, the Federal Communications Commission adopted rules based on long standing principles protecting consumer choice and innovation online. Despite widespread support for the FCC's Open Internet Order from civil rights groups, labor unions, technology companies, and broadband providers, Verizon sued the FCC to overturn the rules and challenge the Agency's legal authority for broadband regulation.
- The D.C. Circuit decision in *Verizon v. FCC* affirmed that the FCC does have some authority over broadband. However, the court went on to say that the FCC's authority is not without limits. One of the limits is if the FCC treats broadband as a more lightly regulated "information service," the Agency cannot also subject the same service to common carriage style regulation.
- It was under this basis that the court struck down the "no-blocking" and "nondiscrimination" rules of the 2010 Open Internet Order. Without the no-blocking rule, a company like Comcast could block its customers from watching a video on YouTube. Without the nondiscrimination rule, Verizon could slow down or degrade the quality of streaming video from Netflix.
- The Open Internet Preservation Act simply restores these Open Internet rules until the FCC adopts new replacement rules under the authorities recognized by the court. It does not alter the FCC's authorities themselves or dictate the new rules the FCC must adopt.
- FCC Chairman Tom Wheeler supports Open Internet protections and has stated he is planning to act in the near future. The Open Internet Preservation Act sends a strong message to the FCC that Congress expects the Agency to have robust open Internet protections on the books.